

WILLIE BILLINGTON §
v. § CIVIL ACTION NO. 6:10cv162
DIRECTOR, TDCJ-CID §

The Petitioner Willie Billington, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his conviction. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the Magistrate Judge issued a Report on May 24, 2010, recommending that the petition be dismissed without prejudice as successive, because Billington had previously challenged the same conviction through a prior federal habeas corpus petition, Billington did not file objections to the Report, but instead asked that his petition be voluntarily dismissed. This request should be granted.

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct, but that the Petitioner's motion for voluntary dismissal of his petition should be granted. It is accordingly

ORDERED that the Petitioner's motion to withdraw his petition (docket no. 10), construed as a motion for voluntary dismissal of the petition, is GRANTED. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED without prejudice on the motion of the Petitioner. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

SIGNED this 8th day of July, 2010.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE